

ORDINANCE NO. 03-21

**AN ORDINANCE REPEALING SECTIONS 12-7 AND 12-8 OF
CHAPTER 8 AND AMENDING ARTICLE VI OF CHAPTER 13 (§§13-
166, ET SEQ.), OF THE CITY CODE, TO REGULATE THE
PRODUCTION AND EMISSION OF NOISE IN THE CITY**

IT IS HEREBY ORDAINED by the City Council of the City of Fredericksburg, Virginia, that Article I of Chapter 12 and Article VI of Chapter 13 of the City Code, relating to motor vehicles and noise control, respectively, shall be amended as follows:

SEC. I. Introduction.

The City Council finds that increased population growth and development in the City has resulted in a significant increase in the number of complaints about loud and raucous noise disturbing the peace and endangering the public health, safety, and welfare. The Council further finds that the existing City ordinances dealing with noise control are too cumbersome and difficult to administer effectively.

The purpose of this ordinance is to repeal the City's existing noise ordinances and to replace them with a system that is uniform throughout the City, that establishes clear and simple standards for determining violations, and that grants the City Manager authority to issue permits for special events where the production of excessive noise is warranted.

SEC. II. City Code Amendments.

A. Sections 12-7 and 12-8 of Chapter 12 of the City Code are hereby repealed.

B. Article VI of Chapter 13 of the City Code (§§13-166, et seq.) shall be deleted and the following language inserted in lieu thereof:

“ARTICLE VI. NOISE CONTROL.

Sec. 13-166. Short title and application of article generally.

This article shall be known and may be cited as the ‘Noise Control Ordinance of the City of Fredericksburg.’ It shall be applicable to the control of noises originating within the jurisdictional limits of the city and from city-owned lands located outside the jurisdictional limits of the city.

Sec. 13-167. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient noise level shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Motorcycle and *motor vehicle* shall have the meanings ascribed to them in §46.2-100 of the Code of Virginia (1950), as amended.

Property boundary shall mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned, leased, or otherwise legally controlled by one person from that owned, leased, or otherwise legally controlled by another, including intra-building real property divisions.

Public space shall mean any real property owned, leased, or controlled by a governmental entity and normally accessible to the public.

Vehicle shall have the meaning ascribed to it in §46.2-100 of the Code of Virginia (1950), as amended.

Sec. 13-168. Administration and enforcement of article.

(a) This article shall be enforced and administered by the city police department.

(b) If conduct which would otherwise constitute a violation of this article consists of speech or the communication of persons gathered to hear or observe speech or communication or to picket or otherwise express in a non-violent manner a position on social, economic, political or religious issues, then the violator must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or issuance of a citation under this article.

Sec. 13-169. Violations of article.

(a) Any person who violates any provision of this article shall be guilty of a Class 3 misdemeanor.

(b) Each day of violation of any provision of this article shall constitute a separate offense.

(c) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If such person cannot be determined, then any owner, tenant, or resident physically present on the property where the violation occurs shall be presumed guilty of a violation of this article.

Sec. 13-170. General prohibition.

(a) No person shall create, continue, or cause to be created or continued any unreasonably loud or raucous noise or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of persons of reasonable sensitivity.

(b) Factors for determining whether a sound shall be considered a violation of this section include, but not be limited to: (1) the proximity of the sound to sleeping facilities, whether residential or commercial; (2) the land use, nature, zoning, and ambient noise level of the area from which the sound emanates and the area where it is received or perceived; (3) the time of day or night that the sound occurs; (4) the duration, volume, and intensity of the sound; and (5) the repetitive nature of the sound, in terms of recurrence, intermittency, or consistency.

Sec. 13-171. Specific acts prohibited.

The following acts are declared to be per se violations of this article. This enumeration shall not constitute an exhaustive list:

(a) *Radios, television sets, boomboxes, stereo systems, musical instruments, loudspeakers, amplifiers, public address systems, and similar devices.* The use or operation of a radio, television set, boombox, stereo system, musical instrument, loudspeaker, amplifier, public address system, or similar device that produces, reproduces, or amplifies sound in such a manner:

(1) that it unreasonably disturbs the peace, quiet, and comfort of any person or persons. The operation of any such device in a manner so as to be plainly audible across a property boundary in any area other than a public space shall be prima facie evidence of a violation of this section;

(2) that is plainly audible in a public space at a distance of fifty (50) feet from the sound source; or

(3) that emanates from a motor vehicle being operated or parked on public or private property, including any public or private street or alley, and that unreasonably disturbs the peace, quiet, and comfort of persons outside of such motor vehicle. The operation of any such device in a manner so as to be plainly audible at a distance of fifty (50) feet from the motor vehicle from which it emanates shall be prima facie evidence of a violation of this section.

(b) *Motor vehicle and motorcycle horns, signaling devices, and similar devices.* The sounding of motor vehicle or motorcycle horns, signaling devices, and similar devices in an unreasonably loud, raucous, or repetitive manner. The sounding of such horns or similar devices as a danger or safety warning shall be exempt from the provisions of this section.

(c) *Non-emergency signaling devices.* The sounding or permitting the sounding of any amplified sound from any bell, chime, whistle, siren, or similar device intended primarily for non-emergency purposes in an unreasonably loud, raucous, or repetitive manner. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or city officials while in the legitimate conduct of emergency or public safety business shall be exempt from the provisions of this section.

(d) *Operation of motor vehicles.* The use or operation of any motor vehicle or motorcycle involving:

(1) the use of any such vehicle so out of repair as to cause loud, raucous, or unnecessary grating, grinding, rattling, or similar noises;

(2) the practice of unnecessarily racing the motor of any such vehicle while standing or moving and thereby causing loud and raucous noise;

(3) the practice of unnecessarily retarding the spark to the motor of any such vehicle and thereby causing loud and raucous noise; and

(4) the practice of accelerating or decelerating such vehicle unnecessarily quickly and thereby causing loud and raucous noise from the motor, the screeching of tires, or similar sources.

(e) *Discharge into open air of engine exhaust.* The discharge into the open air of the exhaust of a motor vehicle, motorcycle, or any other engine except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(f) *Animals and Birds.* Unreasonably loud and raucous or repetitive noise emitted by

an animal or bird for which a person is responsible, either through ownership or physical control.

(g) *Loading or unloading merchandise, materials, equipment.* The creation of unreasonably loud, raucous, or excessive noise in connection with the loading or unloading of any vehicle. Any vehicle loaded with materials likely to create loud and raucous noises shall take every reasonable effort to deaden the noise.

(h) *Construction or repair of buildings; excavations of streets and highways; unloading of construction materials.* Sound emanating from the construction, demolition, alteration, or repair of any building, from the excavation of any street or highway, or from the unloading of construction materials that is plainly audible across a property boundary between the hours of 7:00 p.m. and 7:00 a.m. on weekdays or between the hours of 9:00 p.m. and 9:00 a.m. on weekends and holidays.

(i) *Commercial establishments adjacent to residential property.* Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of a commercial establishment, between the hours of 10:00 p.m. and 7:00 a.m. and which is plainly audible across the property boundary between said commercial establishment and an adjacent residential property.

(j) *Burglar or fire alarms.* The sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm that continues for more than fifteen (15) minutes from activation, unless an emergency exists.

Sec. 13-172. Exemptions from article.

Notwithstanding any other provision of this article to the contrary, sounds generated for any of the following purposes shall be exempt from the provisions of this article:

(a) to alert persons to the existence of an emergency or the emission of sound in the performance of emergency or other public safety work;

(b) to repair utility structures, bridges, streets, or highways that pose a clear and imminent danger to life, health, or significant loss of property;

(c) to conduct or engage in reasonable recreational, cultural, or leisure activities conducted on public playgrounds, stadiums, and on public or private school grounds, including but not limited to, school athletic and entertainment events;

(d) to engage in activities duly authorized under §12-6, §13-173, or §13-266 of this code; and

(e) to operate locomotives, aircraft, and related equipment under normal operating conditions.

Sec. 13-173. Issuance of permits.

The city manager shall be authorized to issue permits to persons allowing the production of noise that might otherwise be prohibited under this article, provided that such permits shall be limited to a specific event, time period, or activity. Such permits shall be issued in accordance with regulations promulgated by the city manager and published in the city administrative manual.”

SEC. III. Effective Date.

This ordinance shall be effective immediately.

First Reading: August 12, 2003 Second Reading: August 26, 2003

Approved as to form:

James M. Pates, City Attorney

CERTIFICATION:

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